

By Legislators Hasman, Maffucci, Hughes-Smith and Blankley

Intro. No. \_\_\_\_

LOCAL LAW NO. \_\_\_\_ OF 2023

**ENACTING A LOCAL LAW AMENDING CHAPTER 323 OF THE MONROE COUNTY CODE**

BE IT ENACTED BY THE LEGISLATURE OF THE COUNTY OF MONROE, as follows:

Section 1. Section 323-29 of the Monroe County Code is hereby amended to read as follows:

**§ 323-29 Controlled substances and Vaping**

**A.** No person shall use, carry, transport or sell within a park any marijuana, narcotic drug, hallucinogen or controlled substance as defined in § 220.00, or drug paraphernalia as defined in § 220.50 of the New York State Penal Law. Violations of this section will be prosecuted in accordance with the New York State Penal Law. Violators will be subject to the penalties prescribed therein.

**B.** No person shall use an electronic cigarette, as that term is defined in New York State Public Health Law § 1399-aa, within (1) one-hundred (100) feet of a county-operated lodge or shelter currently being rented and occupied within a park; or (2) one-hundred (100) feet of a county-operated playground within a park. This provision shall not apply to County employees within outdoor areas of a park that are: (1) not open to the public (e.g., park maintenance areas), and (2) designated by the County for such use.

Section 2. If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 3. This local law shall take effect in accordance with the provisions of the Municipal Home Rule Law and the Monroe County Charter.

Agenda/Charter Committee; February 27, 2023 - CV: 5-0  
File No. 23-0031.LL

ADOPTION: Date: \_\_\_\_\_ Vote: \_\_\_\_\_

**ACTION BY THE COUNTY EXECUTIVE**

APPROVED: \_\_\_\_\_ VETOED: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

EFFECTIVE DATE OF LOCAL LAW: \_\_\_\_\_

Deleted language is stricken  
Added language is underlined



# Monroe County Legislature

## DEMOCRATIC LEGISLATIVE OFFICE

408 COUNTY OFFICE BUILDING • 39 WEST MAIN STREET

ROCHESTER, NEW YORK 14614

Phone: 585-753-1930 • Fax: 585-753-1946

February 9, 2023

To The Honorable  
Monroe County Legislature  
407 County Office Building  
Rochester, New York 14614

Subject: Banning of Vaping in Monroe County Parks

Honorable Legislators:

We, the undersigned, do hereby submit to this Honorable Body a resolution to ban vaping in County public parks. New York State established a law in 2022 to prohibit smoking in any public park that is under the control of any state or local government; Assembly Bill 05061/Senate Bill S04142 was signed by Governor Hochul on July 15, 2022. A park is defined to include public parks, beaches, pools, boardwalks, marinas, playgrounds, recreation centers, group camps and the equipment, buildings and facilities in any of those areas.

Those smoke-free requirements apply to both state-owned parks, as well as those managed by local governments. The enacted State law restricts only "smoking," which is defined separately than "vaping" in New York law. Local units of government retain the ability to adopt stronger regulations that would restrict vaping or e-cigarette use in outdoor areas.

The specific legislative action required is to amend the Section 323-29 of the Monroe County Code to institute a ban on the use of vaping products in County parks.

This resolution will have no fiscal impact on Monroe County's Budget.

Respectfully submitted,

Linda Hasman  
Assistant Minority Leader

Howard Maffucci  
Legislator District 10

Susan Hughes-Smith  
Legislator District 14

Albert Blankley  
Legislator District 24

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| OFFICIAL FILE COPY                                                             |
| No. <u>230031</u>                                                              |
| Not to be removed from the<br>Office of the<br>Legislature Of<br>Monroe County |
| Committee Assignment                                                           |
| <b>AGENDA/CHARTER</b> -L                                                       |

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B. No person shall use an electronic cigarette, as that term is defined in New York State Public Health Law § 1399-aa, within a park. This provision shall not apply to County employees within outdoor areas of a park that are: (1) not open to the public (e.g., park maintenance areas), and (2) designated by the County for such use.

Section 2. If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 3. This local law shall take effect in accordance with the provisions of the Municipal Home Rule Law and the Monroe County Charter.

\_\_\_\_ Committee; \_\_\_\_\_, 2022 - CV:  
File No. 21-\_\_\_\_.LL

ADOPTION: Date: \_\_\_\_\_ Vote: \_\_\_\_\_

**ACTION BY THE COUNTY EXECUTIVE**

APPROVED: \_\_\_\_\_ VETOED: \_\_\_\_\_

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